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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,786	04/05/2001	Patrick Montoya	10954-003	4084

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EXAMINER

STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,786

Applicant(s)

MONTOYA, PATRICK

Examiner

Johnna R Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a first office action upon examination of application number 09/826,786.

Claims 1-30 are pending and have been examined on the merits discussed below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is not clear how a survey response can be unrelated to the survey questionnaire. Clarification is requested.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how a survey response can be unrelated to the survey questionnaire. Clarification is requested.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang, US 6,807,518, in view of the article entitled "Visitors welcomed to the Lexus Centre of Performance Art, the automaker's world wide website", hereinafter referred to as "Lexus".

As per claim 1, Lang teaches establishing communication between a client and a survey collector (column 3, line 54 – column 4, line 11 – computerized system wherein communication is transferred over a server); receiving by the survey collector of a first survey request from the client (column 3, lines 32-35 – customer inquire about concerns and/or desires relating to products or vehicles); inquiring the client with a survey questionnaire from the survey collector (column 3, lines 35-50 – data is acquired through surveys); receiving by the survey collector from the client of a survey response to the survey questionnaire (column 3, lines 35-50 – customer completes surveys including information relating to specific makes, models and types of vehicles, etc.); receiving by the survey collector of identifying indicia from the client, the identifying indicia being related to the survey questionnaire (column 2, line 64 – column 3, line 5 – the vehicle identification number is gathered to correlate to comments and claims given by customers); and providing to the client a response related to the first survey request (column 4, lines 60-67 – the user is provided a display of the data regarding consumer satisfaction etc.).

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Lang does not explicitly teach attempting verification of the identifying indicia of the client. Lexus teaches users using their VIN to gain access to owner surveys. Inherently there is a verification of the VIN number submitted to the system. It would have been obvious to one of ordinary skill in the art to combine the survey system of Lang with the survey system of Lexus including the VIN verification to make the system more secure and more reliable.

As per claim 2, Lang teaches establishing communication is done via the Internet (column 4, lines 1-11).

As per claim 3, Lang teaches relating the survey questionnaire by subject matter to the survey request (column 3, lines 40-45 – the data collected is related to consumer concerns regarding specific makes, models and types of vehicles).

As per claim 4, Lang teaches the survey request and the survey questionnaire are related to automotive vehicles (column 3, lines 40-45 – the data collected is related to consumer concerns regarding specific makes, models and types of vehicles).

As per claim 5, Lang teaches inquiring with the survey questionnaire includes requesting the identifying indicia from the client (column 2, line 64 – column 3, line 5 – the vehicle identification number is gathered to correlate to comments and claims given by customers).

As per claim 6, Lang teaches the identifying indicia is a product identification number (column 2, line 64 – column 3, line 5 – the vehicle identification number is gathered to correlate to comments and claims given by customers).

As per claim 7, Lang teaches the identifying indicia is a VIN number (column 2, line 64 – column 3, line 5 – the vehicle identification number is gathered to correlate to comments and claims given by customers).

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As per claim 8, Lang teaches correlating the identifying indicia to a database (column 2, line 64 – column 3, line 5 – the vehicle identification number is gathered to correlate to stored comments and claims given by customers).

As per claim 9, Lang teaches determining if a relationship exists between the identifying indicia and the subject matter of the survey questionnaire (column 3, lines 1-10 and lines 39-45 – the consumer offers information including the VIN of the vehicle along with the make, model, etc. - the data that is collected through the survey directly relates to the specific vehicle).

As per claim 10, Lang does not explicitly teach determining if a relationship exists between the identifying indicia and the client. Lexus teaches users using their VIN to gain internet access to owner surveys. Inherently there is a verification of the VIN number submitted to the system. It would have been obvious to one of ordinary skill in the art to combine the survey system of Lang with the survey system of Lexus including the VIN verification to make the system more secure and more reliable.

As per claim 11, Lang does not explicitly teach determining if a relationship exists between the identifying indicia and the client. Lexus teaches users using their VIN to gain internet access to owner surveys. Inherently there is a verification of the VIN number submitted to the system. It would have been obvious to one of ordinary skill in the art to combine the survey system of Lang with the survey system of Lexus including the VIN verification to make the system more secure and more reliable.

As per claim 12, Lang teaches providing a composite survey response (column 4, lines 60-67 – the user is provided a display of the data regarding consumer satisfaction etc.).

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As per claim 14, Lang teaches the survey response is generally related to the survey questionnaire (column 4, lines 60-67 – the user is provided a display of the data regarding consumer satisfaction etc.).

As per claim 15, Lang does not explicitly teaches providing a response provides to the client a refusal of the first survey request. However, official notice is taken that it would have been obvious to provide a refusal of a first survey request if the vehicle. The motivation to provide the refusal would allow for easy indication to the user that the vehicle for which they are requesting information does not exist in the database.

As per claim 16, Lang teaches assimilating the survey response into a composite survey response (column 4, lines 60-67 – the user is provided a display of the data regarding consumer satisfaction etc.).

Claims 17-23 are the computer implemented system for performing the method of claims 1-16 therefore the same rejections as applied to claims 1-16 are applied to claims 17-23.

As per claim 24, Lang does not explicitly teach a client entered into a drawing upon completion of a survey questionnaire. However it is old and well known in the art of surveys and incentives to enter a person into a prize drawing after completion of a survey as a way to entice people to complete surveys. By offering to enter a person in a prize drawing the distributor of the survey can increase the number of people who fill out the survey.

As per claim 25, Lang does not explicitly teach one of a monetary payoff of a loan taken out by the client to purchase the product; a monetary payoff of a specified number of loan or lease payments by the client to acquire the product; and a fixed monetary amount. However it is old and well known in the art of surveys and incentives to offer a monetary award to those who

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complete a survey. By offering to enter a person in a drawing for a monetary award, the distributor of the survey can increase the number of people who fill out the survey.

As per claim 26, Lang teaches the survey questionnaire system includes software adapted to forward a survey questionnaire to be completed and electronically returned to the survey questionnaire system (column 3, line 54 – column 4, line 11 – computerized system wherein communication is transferred over a server using the web or internet).

As per claim 27, Lang teaches updating a survey answers database upon completion and return of the survey questionnaire by the client (column 3, line 54 – column 4, line 11 – the data within the surveys are stored in database; there is also access to the data through the computerized system wherein communication is transferred over a server using the web or internet).

As per claim 28, Lang teaches managing data regarding clients using the system (column 3, line 54 – column 4, line 11 – the data within the surveys are stored in database; there is also access to the data through the computerized system wherein communication is transferred over a server using the web or internet), but does not include a registered member database. The users are given access to the data through queries through an interface, however it is old and well known in the art to require users to register or login to view data. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include a registered member database to only allow those registered members to view the data.

As per claim 29, Lang teaches the survey questionnaire relates to automotive vehicles (column 3, lines 40-45 – the data collected is related to consumer concerns regarding specific makes, models and types of vehicles).

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As per claim 30, Lang teaches the requested survey results relates to automotive vehicles (column 4, lines 60-67 – column 5, lines 1-10 - the user is provided a display of the data regarding consumer satisfaction concerning a specific car etc.).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Johnson et al, Re. 31,951 – market survey data collection method

Matyas, Jr., US 6,102,287 – method and apparatus for providing product survey information in an electronic payment system

Hanzek, US 6,654,726 – communication schema of online system and method of status inquiry and tracking related to orders for consumer product having specific configurations

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R Stimpak whose telephone number is 703-305-4566. The examiner can normally be reached on M-F 8am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS
4/4/05


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